

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

GWENDOLYN DOLORES RODGERS	§	
PATRICK INDIVIDUALLY AND ON	§	
BEHALF OF THE ESTATE OF	§	
ALTON RODGERS, DECEASED,	§	
	§	Civ. No. 2:16-cv-00216-J
Plaintiffs,	§	
v.	§	
	§	
BARRY MARTIN, et al.,	§	
	§	
Defendants.	§	

**JOINT MOTION TO MODIFY DEADLINES WITHIN
ORIGINAL RULE 16 SCHEDULING ORDER**

COME NOW the parties, through the undersigned counsel, and respectfully request that the Court modify the scheduling deadlines imposed within the Court’s November 22, 2016 *Original Rule 16 Scheduling Order* (hereinafter “Original Scheduling Order”) (Doc. 8), and enter the proposed amended Scheduling Order attached to this motion. *See* Exhibit 1. The parties present the following detailed factual showing as good cause for the modifications requested within instant motion, as required within the Scheduling Order. *See id.* at p. 2.

1. On October 11, 2016, Plaintiff filed an “Original Complaint” in this matter (hereinafter “Complaint”) (Doc. 1). The Complaint asserts constitutional claims in connection with the death of Alton Rodgers while an inmate in the care and custody of the State of Texas.

2. Due to the nature of the allegations, the Complaint names thirty-four (34) individuals as defendants in this matter, all of whom fall into two general categories: employees of the Texas Department of Criminal Justice and employees of the Texas Tech University Health Sciences Center.

3. As of today's date, nine (9) of the thirty-four (34) defendants remain unserved, all of whom are believed to no longer work for the Texas Department of Criminal Justice or the Texas Tech University Health Sciences Center.

4. As directed within the Court's Original Scheduling Order, the parties conferred on December 12, 2016, in order to develop a discovery plan. As part of this meeting, the parties discussed the potential modification of the Original Scheduling Order's current pretrial deadlines in order to allow sufficient time to complete service upon the remaining unserved defendants in this matter.

5. Should the existing pretrial deadlines stand, certain deadlines will begin to run before the unserved defendants are able to effectively participate. This will force the parties to engage in piecemeal discovery and pretrial litigation where many issues will likely be resolved for certain defendants, only to be readdressed or re-litigated at a later time for the as-yet unserved defendants. This piecemeal litigation would be inefficient, create avoidable logistical challenges, and likely result in additional delay.

6. Plaintiffs are actively attempting to serve the remaining defendants, however, it has proven difficult to locate certain defendants who have left their previous positions and have perhaps relocated in order to pursue other job opportunities.

7. To this end, Plaintiff has filed a motion to compel last known addresses from opposing counsel for these unserved defendants (*see* Doc. 42). Counsel for the Texas Department of Criminal Justice and Texas Tech University Health Sciences Center have indicated that they do not oppose that motion.

8. The parties have included a proposed, amended Scheduling Order for the Court's consideration, which in part extends the parties' "trial-ready" deadline by approximately sixty

(60) days, and moves existing pretrial deadlines in recognition of the time still needed to serve the remaining defendants. *See* Proposed Scheduling Order, at Exhibit 1.

WHEREFORE, for all of the reasons discussed above, the parties respectfully request that the Court modify the scheduling deadlines imposed within the Court's November 22, 2016 *Original Rule 16 Scheduling Order* (Doc. 8), and enter the proposed amended Scheduling Order attached to this motion. *See* Exhibit 1.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of January, 2017, I filed the foregoing pleading electronically through the CM/ECF system, which caused counsel for Defendants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

s/ Maggie H. Lane

ROTHSTEIN DONATELLI LLP